



May 11, 2006

Ms. Kelli Farmer
Consumer & Governmental Affairs Bureau
Policy Division
Federal Communications Commission
445 12th Street, SW, Room 5-A866
Washington, DC 20554

RE: CG Docket No. 02-278

Dear Ms. Farmer:

New York State Higher Education Services Corporation (NYSHESC) is a guaranty agency specializing in the recovery of student loan defaults under the Federal student loan programs created under the Higher Education Act, which include the Federal Family Education Loan Program (the "FFEL Program"). NYSHESC also assists lenders and schools in performing vigorous default prevention activities, thereby reducing Federal student loan default costs and saving thousands of borrowers from suffering the consequences of default.

I am writing in response to your office's call for comment on ACA International's Petition for an Expedited Clarification and Declaratory Ruling Concerning the Telephone Consumer Protection Act (TCPA) Rules (CG Docket No. 02-278). NYSHESC concurs with the basic premise that Federal law and the corresponding FCC regulations concerning the prohibited use of auto dialers by telemarketers to contact borrowers on cellular telephones were never intended to and should not apply to creditors and collectors attempting to recover payments for goods and services already purchased. Failure by the FCC to clarify this position will be detrimental to NYSHESC and the Federal student loan programs as a whole.

In Federal fiscal year 2005, NYSHESC recovered over \$401.2 million in defaulted student loans as a guaranty agency. Of equal importance, NYSHESC prevented nearly \$2.8 billion from defaulting by contacting delinquent student loan borrowers and counseling them on the many repayment options available under the FFEL Program. The inability to use auto dialer technology would not only lead to reduced default recoveries and increased defaults, but thousands of borrowers who otherwise may have brought their accounts current will suffer the negative ramifications of student loan default. These are real dollar and human costs, and they can be avoided by the proper FCC declaratory ruling.

NYSHESC respectfully requests that the Commission issue a declaratory ruling clarifying that 47 C.F.R. § 64.1200(a)(1)(iii) does not apply to creditors and collectors when calling telephone numbers to recover payments for goods and services received by consumers, and that the 2003 TCPA rulemaking did not alter the Commission's previous findings, that calls to recover debts are not subject to the TCPA's auto-dialer restrictions.

Sincerely,

Dantaida de Guzman
Director
Collection Default Management

